

MISC.CIVIL APPLICATION NO. 447 OF 1990.

Date of decision: 7.12.1995.

For approval and signature

The Honourable Mr. Justice S. M. Soni

and

The Honourable Mr. Justice R. R. Jain

Mr. M.B. Thakore, advocate for petitioner.

Mr. M.S. Desai, advocate for respondent.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M. Soni & R.R. Jain, JJ.

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December 7, 1995.

Oral judgment (Per Soni, J.)

Petitioner has prayed for necessary action against respondent for non-compliance of the order passed by this court in Miscellaneous Civil Application No. 753 of 1989. By the said order, respondent was directed to pay arrears by 12 equal monthly instalments. That direction was given in view of the award passed by the Labour Court. However, said order is executable under the provisions of the Industrial Disputes Act.

In view of the judgment of the Supreme Court in the case of the Alahar Co-operative Credit Service Society v. Sham Lal, reported in 1995 (2) G.L.H. 550, contempt proceeding is not a substitute for execution. In our opinion, when the petitioner can execute the order, which is in substance a claim for money, this court would not like to exercise its discretion under the Contempt of Courts Act.

In the result, the petition is dismissed. Rule discharged. No costs.